



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------|------------------|
| 10/668,791 | 09/22/2003 | Bruce B. Gaillard | GAIL-003 | 4327 |
| 7590 12/27/2004 | | | | |
| Michael S. Neustel Suite No. 4 2534 South University Drive Fargo, ND 58103 | | | EXAMINER BUI, LUAN KIM | |
| | | | ART UNIT 3728 | PAPER NUMBER |

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/668,791 | Applicant(s) GAILLARD, BRUCE B. | |
| | Examiner Luan K Bui | Art Unit 3728 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 11-13 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 4, 14 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/22/03</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foote (6,109,446) in view of Meksula (3,713,529). Foote discloses a curling iron organizer/portable salon station system (10) comprising an enclosure including a base (12) and a cover (14) pivotally connected to the base, a support member (24) pivotally attached within the base at a pivot point (26) and a plurality of holder members (30) attached to the support member. Foote also discloses the other claimed limitations except for a guide member being pivotally attached within the base and a guide slot within the guide member that slidably receives a pin extending from the support member. Meksula shows a container comprising a base (1) and a cover (2, 3), a guide member (43) pivotally attached within the base and a guide slot (45) within the guide member that slidably receives a pin (46) extending from the cover. It would have been obvious to one having ordinary skill in the art in view of Meksula to modify the pivot point of the support member of Foote so the pivot point comprises a guide member pivotally attached within the base and a guide slot within the guide member that slidably receives a pin extending from the support member to provide a better pivot point for the support member. As to claim 2, Foote discloses the holder members made from heat resistant material. However, Foote fails to disclose the base and the cover comprises a heat resistant inner liner. It would have been obvious to one having ordinary skill in the art at the time the invention was made in view of the holder members of

Art Unit: 3728

Foote to modify the base and the cover so the base and the cover comprises a heat resistant inner liner to prevent the enclosure from getting damage from heat. As to claim 3, Foote discloses a handle (54). As to claim 7, corner members as shown in Figure 1 of Foote are considered equivalent to feet.

3. Claims 11-13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Dunn, Jr. (6,294,759). The system of Foote as modified further fails to show a transporting structure having a plurality of wheels for supporting the enclosure. Dunn, Jr. teaches a system (10) comprising an enclosure (20) and a transporting structure (70, 72, 74) having a plurality of wheels (70) for transporting the enclosure. It would have been obvious to one having ordinary skill in the art in view of Dunn, Jr. to modify the system of Foote as modified so the system includes a transporting structure having a plurality of wheels for supporting the enclosure to facilitate moving the system.

Allowable Subject Matter

4. Claim 10 is allowed.

5. Claims 4, 14 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

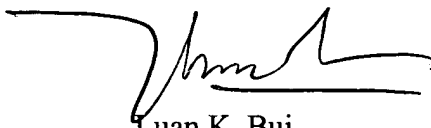
Art Unit: 3728

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Merilyn Watts at (571) 272-4398.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
December 21, 2004



Luan K. Bui
Primary Examiner